IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 15.11.2007

Coram

THE HONOURABLE MR. JUSTICE K. MOHAN RAM

CRIMINAL REVISION CASE No. 1566 OF 2007

T. Ramasamy ... Petitioner/Accused/
Petitioner

-Vs.-

The State represented by
Sub-inspector of Police,
Kadathur Police Station,
Kadathur,
Gobichettipalayam Taluk,
Erode District. ...Respondent /Respondent

Revision against the order dated 09.07.2007 made in C.M.P.No.1241 of 2007 in S.T.C.No.1001 of 2006 on the file of Judicial Magistrate No.II, Gobichettipalayam, Erode District.

For Petitioner: M/s. S. Kamadevan
For Respondent: Mr. Hasan Mohamed Jinnah,
Government Advocate.

J U D G M E N T

The above revision is directed against the order dated 09.07.2007 made in C.M.P.No.1241 of 2007 in S.T.C.No.1001 of 2006 on the file of Judicial Magistrate No.II, Gobichettipalayam, Erode District.

2. The petitioner who faced trial for offence under section 4(1)(A) of Tamil Nadu Prohibition Act, by judgment dated 11.06.2007 rendered in S.T.C.No.1001 of 2006 was acquitted. While acquitting the accused, the learned Magistrate has directed the confiscation of vehicle bearing Registration No.36/Y-4556. Thereafter, the petitioner filed a petition under section 452 read with section 451 Cr.P.C seeking return of the said vehicle claiming to be its owner. The said petition was dismissed by the learned Magistrate stating that already property order has been passed in the Judgment dated 11.06.2007. Being aggrieved by that, above revision has been filed.

3. Heard learned counsel appearing for the petitioner and also learned Government Advocate (Criminal side).

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4. Learned counsel for the petitioner submits that the petitioner having been acquitted and when the petitioner is the registered owner of the vehicle , the vehicle should have been returned as prayed for but the learned Magistrate erroneously dismissed the petition filed by him. Mr. Hasan Mohamed Jinnah, learned Government Advocate takes notice and submits that since the final order has been passed in respect of the property involved in the offence under section 452 Cr.P.C, an appeal alone will lie under section 454 Cr.P.C and the petition filed before the Lower Court is not maintainable and the lower Court correctly dismissed the petition.

5. I have carefully considered the above said submissions made on either side.

6. Admittedly, by the judgment dated 11.06.2007, the petitioner has been acquitted; but the vehicle has been directed to be confiscated to the Government. Such an order passed by the learned Judicial Magistrate, Gopichettipalayam can only be treated as an order passed under section 452 of Cr.P.C. Under Section 454 Cr.P.C the order passed under Section 452 Cr.P.C is appealable. Admittedly the petitioner has not filed any appeal. But instead of filing an appeal, the petitioner has filed a petition, which was rightly rejected by the Court below. Hence, absolutely, there is no irregularity or illegality in the order passed by the Court below.

7. In such view of the matter, the Criminal Revision fails and the same is dismissed. However, it is made clear that it is open to the petitioner to file an appeal by invoking under section 454 Cr.P.C.

mra

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.Sub-inspector of Police,
Kadathur Police Station,
Kadathur,Gobichettipalayam Taluk,
Erode District.
2.The Judicial Magistrate No.II, Gobichettipalayam,
Erode District.
+ One cc to Mr. S. Kamadevan, Advocate SR 67713
AD (co)
sg 26/11/07

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15.11.2007

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